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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE LAUREL BEELER

UNITED STATES OF AMERICA,

PLAINTIFF,

VS.

QUANG HUY BUI,

DEFENDANT.

NO. 16-MJ-71398

SAN FRANCISCO, CALIFORNIA

TUESDAY

NOVEMBER 8, 2016

TRANSCRIPT OF PROCEEDINGS OF THE OFFICIAL ELECTRONIC SOUND

RECORDING 9:44-9:48; 10:28-10:48

APPEARANCES:

FOR PLAINTIFF

UNITED STATES ATTORNEY'S OFFICE
NORTHERN DISTRICT OF CALIFORNIA
450 GOLDEN GATE AVENUE
BOX 36055
SAN FRANCISCO, CALIFORNIA 94102

BY: JEFFREY L. SHIH, AUSA

FOR DEFENDANT

ORRICK, HERRINGTON & SUTCLIFFE, LLP
405 HOWARD STREET
SAN FRANCISCO, CALIFORNIA 94105

BY: RANDALL LUSKEY, ESQUIRE

TRANSCRIBED BY: JOAN MARIE COLUMBINI, CSR #5435, RPR
RETIREED OFFICIAL COURT REPORTER, USDC

EXHIBIT A

1 TUESDAY, NOVEMBER 8, 2016

9:44 A.M.

2 (TRANSCRIBER'S NOTE: DUE AT TIMES TO COUNSELS' FAILURE TO
3 IDENTIFY THEMSELVES WHEN SPEAKING, CERTAIN SPEAKER
4 ATTRIBUTIONS ARE BASED ON EDUCATED GUESS.)

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6 PROCEEDINGS

7 **THE CLERK:** CALLING 3-16-71398, USA VERSUS QUANG BUI.
8 COUNSEL, PLEASE STATE YOUR APPEARANCES FOR THE
9 RECORD.

10 **MR. SHIH:** GOOD MORNING, YOUR HONOR. JEFF SHIH ON
11 BEHALF OF THE UNITED STATES.

12 **THE COURT:** GOOD MORNING, MR. SHIH.

13 **MR. LUSKEY:** GOOD MORNING, YOUR HONOR. RANDY LUSKEY
14 FROM ORRICK, HERRINGTON & SUTCLIFFE REPRESENTING QUANG HUY BUI,
15 WHO IS PRESENT AND IN CUSTODY AND ASSISTED BY A VIETNAMESE
16 INTERPRETER.

17 **THE COURT:** ALL RIGHT. GOOD MORNING TO EVERYONE.

18 OKAY. SO THIS MATTER IS ON CALENDAR FOR FURTHER
19 DETENTION PROCEEDINGS. AT THE LAST CALLING OF THE CASE --
20 YOU'LL LET ME KNOW IF I'M GOING TO FAST FOR THE INTERPRETER --
21 I SAID THAT I WOULD CONSIDER RELEASE IF YOU COULD COME UP WITH
22 SOME SURETIES, WHICH YOU HAVE.

23 WE CAN HEAR FROM THE GOVERNMENT, TOO, BUT WHY DON'T
24 YOU START BY TELLING US WHAT YOU PROPOSE, MR. LUSKEY.

25 **MR. LUSKEY:** CERTAINLY, YOUR HONOR. OUR PROPOSAL IS

1 AS FOLLOWS: WE PROPOSE THAT A SECURED BOND BE FUNDED BY THE
2 FOLLOWING FOUR SOURCES: THE FIRST IS A SURETY REFLECTED IN THE
3 PRETRIAL SERVICES REPORT NAMED GIANG NGUYEN, G-I-A-N-G. AND
4 THE PRETRIAL SERVICES REPORT NOTES THAT MR. NGUYEN WILL NOT BE
5 PRESENT TODAY, BUT HE IS ACTUALLY AVAILABLE BY TELEPHONE --

6 **THE COURT:** OKAY.

7 **MR. LUSKEY:** -- IF YOU WISH TO TALK TO HIM.

8 **THE COURT:** WE COULD DO IT BY PHONE.

9 **MR. LUSKEY:** PERFECT. YEAH.

10 **THE COURT:** THAT'S FINE.

11 **MR. LUSKEY:** I TALKED WITH HIM. HE'S AVAILABLE NOW
12 IF YOU HAVE ANY QUESTIONS FOR HIM.

13 **THE COURT:** OKAY.

14 **MR. LUSKEY:** HE'S IN THE -- OUTSIDE OF SEATTLE.

15 **THE COURT:** OKAY.

16 **MR. LUSKEY:** HE OWNS A HOUSE HE'S WILLING TO POST.
17 THE PROPOSAL THAT WE ARE MAKING IS THAT HE WOULD POST \$40,000
18 IN EQUITY SECURED BY HIS HOUSE IN WASHINGTON.

19 **THE COURT:** OKAY.

20 **MR. LUSKEY:** THE REPORT LAYS OUT HE IS A PERMANENT
21 RESIDENT, A LONG-TIME FRIEND OF MR. BUI. THEY ACTUALLY WENT TO
22 HIGH SCHOOL TOGETHER (INDISCERNIBLE) OVER 20 YEARS. HE'S AN IT
23 ARCHITECT OUTSIDE OF SEATTLE. SO THAT WOULD BE THE FIRST
24 SURETY.

25 THE SECOND SURETY IS ANOTHER VERY GOOD FRIEND OF

1 MR. BUI'S WHOSE NAME IS MINH NGUYEN, AND MINH IS ACTUALLY
2 PRESENT HERE IN COURT TODAY.

3 DO YOU WANT TO STAND UP MR. NGUYEN.

4 MINH PROPOSES -- OR WE PROPOSE THAT MINH WOULD POST A
5 SECURED BOND OF \$10,000. THE REPORT NOTES UP TO \$20,000. I
6 BELIEVE HE HAS 20,000 IN AN ACCOUNT, BUT OUR PROPOSAL IS HE
7 WOULD SECURE THE BOND WITH A \$10,000 AMOUNT. MINH IS A
8 PERMANENT RESIDENT. HE'S A MECHANICAL ENGINEER IN THE SAN JOSE
9 AREA.

10 THE THIRD SOURCE OF THE BOND WOULD BE A \$30,000 LOAN
11 FROM THE CONSULATE WHICH IS SECURED BY THE DEFENDANT'S HOME IN
12 VIETNAM AND WE DISCUSSED AT THE LAST HEARING.

13 AND THE FOURTH SOURCE OF THE BOND WOULD BE \$20,000
14 FROM THE DEFENDANT HIMSELF, A SAVINGS ACCOUNT THAT HE AND HIS
15 WIFE HAVE. THE DEFENDANT'S WIFE, THUY, IS HERE IN THE COURT AS
16 WELL, AND SHE WOULD COSIGN ON THAT SECURED BOND AS A SURETY AS
17 WELL.

18 THAT GETS US TO AN AMOUNT OF --

19 **THE COURT:** A HUNDRED THOUSAND DOLLARS.

20 **MR. LUSKEY:** -- A HUNDRED THOUSAND DOLLARS SECURED.

21 SO OUR RECOMMENDATION WOULD BE IF THE COURT WANTS AN
22 ADDITIONAL AMOUNT, THAT THE REMAINDER CAN BE MADE UP BY AN
23 UNSECURED BOND SIGNED BY THE DEFENDANT AND HIS WIFE OR BY ONE
24 OF THE FRIENDS WHO WOULD BE MORE THAN WILLING TO SIGN ON THE
25 UNSECURED PORTION AS WELL.

1 **THE COURT:** OKAY. THAT MAKES SENSE. SO WHAT I WOULD
2 PROPOSE -- I THINK THE -- AND THEN WE'LL HEAR FROM MR. SHIH.
3 WHAT I WOULD PROPOSE IS THAT -- PRETRIAL SERVICES RECOMMENDED A
4 \$300,000 SECURED BOND. I WOULD BE HAPPY TO HAVE IT SECURED BY
5 THE HUNDRED THOUSAND DOLLARS YOU PROPOSE. I'D EVEN BE HAPPY TO
6 MAKE THE DOLLAR AMOUNT \$250,000 AS OPPOSED TO \$300,000. THAT
7 WOULD BE MY INCLINATION. I WANT TO HEAR FROM MR. SHIH. BUT
8 THAT'S WHAT I WOULD PROPOSE. I DON'T KNOW IF YOU -- IT'S OKAY,
9 OBVIOUSLY, IF YOUR POSITION REMAINS THE SAME AS IT DID AT THE
10 LAST HEARING.

11 **MR. SHIH:** THAT'S CORRECT. THE GOVERNMENT'S POSITION
12 DOES REMAIN THE SAME, DOES UNDERSTAND WHERE THE COURT IS GOING
13 WITH THIS.

14 **THE COURT:** ALL RIGHT. GOOD THANK YOU, MR. SHIH.
15 THAT'S WHAT I PROPOSE. DID YOU FILL OUT THE BOND
16 FORM? THAT'S THE QUESTION. BECAUSE IF NOT, WHAT I'LL DO IS
17 I'LL PASS THE MATTER, WHICH IS -- SORRY, BUT YOU'LL HAVE TO
18 COME BACK -- AND FILL OUT THE BOND FORM WITH ALL OF THAT.

19 AFTERWARDS, WHEN WE RECALL THE MATTER, WE'LL CALL --
20 WE'LL DIAL IN THE PERSON WHO'S APPEARING BY PHONE, MR. NGUYEN,
21 FROM SEATTLE AND THEN WE'LL DO THE BOND FORM.

22 **MR. LUSKEY:** SOUNDS LIKE A GOOD PLAN, YOUR HONOR.
23 THANK YOU.

24 **THE COURT:** ALL RIGHT.

25 (PROCEEDINGS IN RECESS FROM 9:48 A.M. TO 10:48 A.M.)

1 **THE CLERK:** RECALLING 3-16-71398, USA VERSUS QUANG
2 BUI.

3 **THE COURT:** COUNSEL, GO AHEAD AND STATE YOUR
4 APPEARANCES FOR THE RECORD.

5 **MR. LUSKEY:** HI, GIANG. CAN YOU HEAR ME? THIS IS
6 RANDY LUSKEY, MR. BUI'S ATTORNEY.

7 **MR. GIANG NGUYEN:** HI, HI (INDISCERNIBLE).

8 **MR. LUSKEY:** HI THERE. WE'RE CALLING YOU FROM JUDGE
9 BEELER'S COURTROOM. YOU CAN HEAR US OKAY?

10 **MR. GIANG NGUYEN:** (INDISCERNIBLE.)

11 **MR. LUSKEY:** OKAY. GREAT. WE'RE GOING TO STATE OUR
12 APPEARANCES FOR RECORD, AND THEN THE JUDGE WILL HAVE SOME
13 QUESTIONS FOR YOU. OKAY?

14 **MR. GIANG NGUYEN:** SURE.

15 **THE COURT:** OKAY, GREAT.

16 RANDY LUSKEY ON BEHALF OF QUANG HUY BUI, WHO IS
17 PRESENT IN CUSTODY AND ASSISTED BY A VIETNAMESE INTERPRETER.

18 **MR. SHIH:** GOOD MORNING AGAIN, YOUR HONOR. JEFF SHIH
19 ON BEHALF OF THE UNITED STATES.

20 **THE COURT:** GOOD MORNING. AND SO ALL THE SURETIES
21 SHOULD COME UP AND STATE THEIR NAMES FOR THE RECORD, TOO,
22 INCLUDING MR. NGUYEN ON THE PHONE.

23 **MR. GIANG NGUYEN:** CAN YOU REPEAT THE QUESTION? IT'S
24 NOT CLEAR TO ME.

25 **MR. LUSKEY:** YES, THE QUESTION, GIANG, WAS JUST COULD

1 YOU STATE YOUR NAME FOR THE RECORD?

2 **MR. GIANG NGUYEN:** OKAY. SO MY NAME IS GIANG JUNG
3 NGUYEN. GIANG IS THE FIRST NAME. JUNG IS THE MIDDLE NAME.
4 AND NGUYEN IS MY LAST NAME.

5 **THE COURT:** OKAY. GOOD. THANK YOU, MR. NGUYEN.

6 **MR. LUSKEY:** YOU CAN ALSO STATE YOUR NAME FOR THE
7 RECORD, PLEASE.

8 **MS. PHAM:** MY NAME IS THUY PHAM, T-H-U-Y P-H-A-M.

9 **THE COURT:** THANKS, MS. PHAM.

10 **MR. MINH NGUYEN:** AND MY NAME IS MINH NGUYEN.

11 **THE COURT:** ALL RIGHT. THANK YOU, MR. NGUYEN.

12 ALL RIGHT. SO EVERYBODY HAS AGREED TO SIGN ON TO A
13 BOND AS SURETIES, AND I THINK THAT I WAS GOING TO PROPOSE, TOO,
14 THAT THE WIFE WAS GOING TO ACT AS CUSTODIAN, RIGHT?

15 AND, MS. PHAM -- I'M GOING TO GO THROUGH ON THE
16 RECORD WHAT ALL THE CONDITIONS ARE GOING TO BE IN A MINUTE, BUT
17 FIRST WE ALWAYS TELL THE SURETIES AND THE CUSTODIAN WHAT THE
18 CHARGES ARE OFFICIALLY FOR THE RECORD. SO I'M GOING TO SAY
19 WHAT THE CHARGES ARE AND THE POSSIBLE PENALTIES.

20 THIS IS THE WRONG FILE. GIVE ME A SECOND.

21 AND THEN I'LL ASK IF YOU UNDERSTAND THEM. SO HANG ON
22 FOR A SEC.

23 ALL RIGHT. SO THE CHARGE GENERALLY IS THAT MR. BUI
24 IS CHARGED WITH FELONY COUNTS IN COUNT ONE WITH VIOLATING THE
25 ARMS SUPPORT CONTROL ACT BY ATTEMPTING TO EXPORT FROM THE

1 UNITED STATES A DEFENSE ARTICLE WITHOUT THE REQUIRED LICENSE.
2 THAT'S THE FIRST COUNT.

3 AND THE COUNT -- SECOND COUNT CHARGES SMUGGLING,
4 WHICH IS SMUGGLING GOODS FROM THE UNITED STATES. THAT'S
5 GENERALLY WHAT THE CHARGES ARE.

6 THE PENALTIES -- IS IT A FIVE-YEAR -- THE PENALTIES
7 ON THE FIRST COUNT IS -- AND I'M NOT SAYING THIS IS WHAT
8 MR. BUI WILL GET, IT'S JUST THE MAXIMUM UNDER THE STATUTE. FOR
9 THE FIRST COUNT, IT'S UP TO 20 YEARS IN PRISON. FOR THE SECOND
10 COUNT, IT'S UP TO 10 YEARS IN PRISON.

11 THERE'S ALSO FOR EACH COUNT A PERIOD OF SUPERVISED
12 RELEASE, WHICH IS LIKE A PERIOD OF PROBATION AFTER ANY CUSTODY
13 TERM. FOR THE FIRST COUNT, THAT'S FIVE YEARS -- UP TO FIVE
14 YEARS. FOR THE SECOND COUNT, IT'S UP TO THREE YEARS.

15 THERE'S ALSO A MAXIMUM FINE. FOR THE FIRST COUNT,
16 IT'S UP TO A MILLION DOLLARS. FOR THE SECOND COUNT, IT'S UP TO
17 \$250,000.

18 AND FOR EACH COUNT IT'S -- THERE'S A FEE, A SPECIAL
19 ASSESSMENT FEE WHICH IS \$100.

20 AND SO I'LL ASK EACH SURETY TO SAY -- WE'LL START
21 WITH MR. NGUYEN ON THE PHONE FIRST.

22 MR. NGUYEN FROM SEATTLE, DO YOU UNDERSTAND WHAT THE
23 CHARGES ARE AND WHAT THE PENALTIES MIGHT BE?

24 **MR. GIANG NGUYEN:** I UNDERSTAND.

25 **THE COURT:** ALL RIGHT.

1 AND SO, MS. PHAM, DO YOU UNDERSTAND? ALL RIGHT.

2 AND DO YOU, MR. NGUYEN, UNDERSTAND?

3 **MR. MINH NGUYEN:** YES.

4 **THE COURT:** OKAY. SO ALL CONDITIONS WILL BE IN
5 WRITING. EVERYONE WILL HAVE -- AND MR. NGUYEN IN SEATTLE WILL
6 HAVE TO SIGN THE BOND FORM. WE'LL BE ABLE TO -- WE'LL FILE IT
7 TODAY. HE'LL BE ABLE TO GET A COPY FROM THE DOCKET, AND YOU
8 CAN SEND HIM A COPY. HE CAN, I SUPPOSE, SIGN IT AND -- BECAUSE
9 HE'S ACKNOWLEDGING ON THE PHONE, I'M DOING THE ACKNOWLEDGMENT,
10 AND JUST SEND IT BACK, AND IT CAN BE POSTED ON THE DOCKET.

11 **MR. LUSKEY:** OKAY. THAT WORKS, YOUR HONOR.

12 **THE COURT:** OKAY. AND YOU CAN SORT OF MANAGE DOING
13 THAT?

14 **MR. LUSKEY:** I WILL.

15 **THE COURT:** OKAY. SO ALL CONDITIONS WILL BE IN
16 WRITING.

17 MR. BUI, IN ADDITION -- IF YOU VIOLATE ANY OF THE
18 CONDITIONS, YOUR CUSTODY -- YOUR SENTENCE [SIC] COULD BE
19 REVOKED AND YOU COULD GO BACK INTO CUSTODY, AND THERE YOU WOULD
20 STAY. IN ADDITION, ALL THE CONDITIONS ARE COURT ORDERS, AND IF
21 YOU VIOLATE THEM, THAT'S A SEPARATE CRIME CALLED CONTEMPT OF
22 COURT.

23 ONE OF YOUR CONDITIONS IS YOU NEED TO SHOW UP FOR ALL
24 OF YOUR COURT APPEARANCES AND SURRENDER FOR THE SERVICE OF ANY
25 SENTENCE IMPOSED. IF YOU DON'T DO THAT, THAT'S A CRIME.

1 IT'S A CRIME TO TRY TO INFLUENCE A JUROR, THREATEN,
2 OR ATTEMPT TO BRIBE A WITNESS, RETALIATE AGAINST ANYONE FOR
3 PROVIDING INFORMATION ABOUT YOUR CASE OR OTHERWISE OBSTRUCT
4 JUSTICE. THOSE -- ALL THOSE CRIMES CARRY A SEPARATE PENALTY OF
5 UP TO FIVE YEARS IN PRISON AND \$250,000 FINE.

6 I KNOW YOU ARE NOT GOING TO DO THIS, BUT IF YOU WERE
7 TO COMMIT A CRIME WHILE ON RELEASE, IT COULD SUBJECT YOU TO A
8 HIGHER PENALTY THAN YOU MIGHT OTHERWISE HAVE BECAUSE YOU'RE ON
9 SUPERVISION.

10 THE CONDITIONS ARE AS FOLLOWS.

11 THE TOTAL AMOUNT OF THE BOND -- EVERYBODY'S GOING TO
12 BE A SURETY, INCLUDING YOU, SO EVERYBODY SIGNS AS SURETY, AND
13 I'LL TALK ABOUT WHAT THAT MEANS. THE TOTAL AMOUNT OF THE BOND
14 IS \$250,000. THE POSTING -- IT WILL BE SECURED BY A HUNDRED
15 THOUSAND DOLLARS, AND THE HUNDRED THOUSAND DOLLARS WILL BE --
16 AND I'LL TALK A LITTLE BIT MORE ABOUT THAT IN A MINUTE, BUT
17 THAT WILL BE \$40,000 FROM MR. NGUYEN IN SEATTLE, GIANG NGUYEN.
18 AND THEN, MR. NGUYEN HERE IN THE COURTROOM, THE AMOUNT THAT
19 YOU'RE POSTING WILL BE \$10,000. MR. BUI AND MS. PHAM ARE
20 PERSONALLY POSTING \$20,000.

21 IS THAT WHAT YOU TOLD ME?

22 **MR. LUSKEY:** PLUS THE \$30,000 --

23 (SIMULTANEOUS SPEAKING.)

24 **THE COURT:** -- PLUS THE \$30,000 THAT YOU'RE GOING TO
25 BE BORROWING FROM THE VIETNAMESE CONSULATE SECURED BY YOUR

1 PROPERTY IN VIETNAM, SO A TOTAL OF \$50,000.

2 BUT WHAT HAPPENS IS THE TOTAL DOLLAR AMOUNT OF THE
3 BOND IS \$250,000. SO IF MR. BUI WERE TO VIOLATE ANY OF THE
4 CONDITIONS, THE COURT WOULD DECLARE THE BOND FORFEIT. THE
5 MONEY THAT YOU POST WOULD BE FORFEITED. BUT ON MOTIONS BY THE
6 GOVERNMENT, THE GOVERNMENT CAN COME AFTER YOU FOR THE FULL
7 AMOUNT OF THE BOND, PLUS INTERESTS AND COSTS. SO THAT'S WHAT
8 IT MEANS FOR THE DOLLAR AMOUNT.

9 WHEN I FINISH TELLING YOU ALL THE CONDITIONS, I'M
10 GOING TO ASK THE SURETIES IF THEY AGREE TO BE SURETIES, BECAUSE
11 NO ONE CAN FORCE YOU TO. IT'S VOLUNTARY. BUT WE'LL COME BACK
12 TO THAT IN A MINUTE.

13 SO THAT'S THE DOLLAR AMOUNT.

14 THE CONDITIONS ARE THAT WE -- I ALREADY MENTIONED
15 THAT YOU'LL APPEAR AT ALL COURT PROCEEDINGS AND SURRENDER FOR
16 THE SERVICE OF ANY SENTENCE IMPOSED. YOU'LL NOT COMMIT ANOTHER
17 FEDERAL, STATE, OR LOCAL CRIME. YOUR TRAVEL WILL BE RESTRICTED
18 TO THE NORTHERN DISTRICT OF CALIFORNIA. THAT'S THE BAY AREA.
19 THAT'S THE COUNTIES ON THE FRONT -- LISTED ON THE FRONT OF THE
20 BOND FORM. THERE'S A MAP ON THE BACK. YOU'LL ALSO BE
21 PERMITTED TO TRAVEL TO AND FROM NEW MEXICO FOR YOUR COURT
22 APPEARANCES AND LEGAL VISITS.

23 YOU'LL REPORT IN PERSON TO PRETRIAL SERVICES AFTER
24 YOU'RE RELEASED AND THEREAFTER AS THEY DIRECT YOU TO REPORT.
25 YOU'LL SURRENDER YOUR PASSPORTS -- I THINK THE AGENTS ALREADY

1 HAVE THE PASSPORTS.

2 **MR. SHIH:** THAT'S CORRECT, YOUR HONOR.

3 **THE COURT:** AND I DON'T KNOW WHETHER THEY WOULD GO TO
4 PRETRIAL SERVICES. THAT NORMALLY HAPPENS, BUT UNDER THE
5 CIRCUMSTANCES, I DON'T KNOW WHAT THE -- MR. LUSKEY WILL WORK
6 THAT OUT WITH THE GOVERNMENT. I THINK THAT NORMALLY THEY GO TO
7 PRETRIAL BECAUSE THEY'RE TRAVEL DOCUMENTS. SO USUALLY THE
8 AGENTS RELEASE THEM TO THE GOVERNMENT, WHICH THEN GETS THEM TO
9 PRETRIAL SERVICES.

10 **MR. LUSKEY:** WE'LL WORK ON THAT.

11 **THE COURT:** I MEAN, IF YOU GUYS AGREE THE AGENTS WILL
12 RETAIN CUSTODY OF THEM, I GUESS YOU CAN DO THAT. THAT HAPPENS,
13 TOO.

14 BUT YOU ARE NOT TO HAVE ANY PASSPORTS WHILE ON YOUR
15 RELEASE. DOES HE HAVE A TRAVEL -- DOES HE HAVE A DRIVER'S
16 LICENSE AND I.D. IN HIS NAME?

17 **THE DEFENDANT:** DRIVER'S LICENSE IT EXPIRE ON
18 SEPTEMBER, SO (INDISCERNIBLE) EXTENSION. WE SHALL RENEW THE
19 DRIVER'S LICENSE.

20 **THE COURT:** I SEE. I SEE. ONE OF THE ISSUES IS HOW
21 DOES HE GET BACK AND FORTH. HE NEEDS AN I.D. DOCUMENT TO GET
22 TO NEW MEXICO.

23 **MR. LUSKEY:** VERY GOOD QUESTION.

24 **THE COURT:** BUT HE SHOULD BE ABLE TO GET -- PRETRIAL
25 CAN GIVE HIM AN I.D., BUT HE PROBABLY NEEDS AN I.D. TO GET ON

1 THE AIRPLANE, BUT YOU'LL WORK THAT OUT.

2 **MR. LUSKEY:** WE WILL.

3 **THE COURT:** YOU'RE NOT TO CHANGE RESIDENCES WITHOUT
4 LETTING PRETRIAL SERVICES KNOW. YOU'RE SUPPOSED TO RESIDE AT
5 THE PLACE THAT'S ON THE BOND FORM. AND AT LEAST -- YOU'LL BE
6 SUBJECT TO ELECTRONIC MONITORING. YOU CAN LEAVE FOR LEGAL,
7 MEDICAL, OR OTHERWISE APPROVED BY PRETRIAL SERVICES.

8 YOU KNOW I ALWAYS SAY THIS TO PRETRIAL, BUT THE IDEA
9 IS TO CREATE SOME STABILITY SO EVERYBODY KNOWS STATUS QUO. YOU
10 GO HOME, AND PRETRIAL SERVICES WILL WORK OUT -- THEY CAN WORK
11 IT OUT. THEY HAVE CHILDREN, RIGHT?

12 **MR. LUSKEY:** THEY DO, YOUR HONOR.

13 **THE COURT:** YEAH, SO THEY'LL WORK OUT CONDITIONS FOR
14 YOU TO DEAL WITH YOUR REGULAR LIFE, BUT I'LL LET PRETRIAL
15 SERVICES DO THAT. BUT IT'S MY INTENT TO GIVE PRETRIAL THAT
16 FLEXIBILITY.

17 AND THOSE ARE ALL THE CONDITIONS. ALL RIGHT.

18 SO I'LL ASK YOU, MR. BUI, FIRST: DO YOU PROMISE TO
19 ABIDE BY ALL THE CONDITIONS OF YOUR RELEASE, AND ALSO TO SHOW
20 UP FOR ALL OF YOUR COURT APPEARANCES, AND TO SURRENDER FOR THE
21 SENTENCE OF ANY SENTENCE IMPOSED? DO YOU PROMISE ME THAT?

22 **THE DEFENDANT:** I AGREE.

23 **THE COURT:** OKAY. SO ONE OF THE ISSUES FOR THE
24 SURETIES -- AND EVERYONE'S A SURETY -- IS THAT IT'S -- THAT
25 YOU'RE -- I ALREADY DESCRIBED WHAT IT MEANS TO BE A SURETY AND

1 WHAT HAPPENS IF MR. BUI DOESN'T COMPLY WITH THE TERMS OF THE
2 SUPERVISION. THE REASON WE HAVE PEOPLE SIGN THE SURETIES IS IN
3 VERY -- IN A VERY REAL WAY PEOPLE ARE STAKING THEIR FINANCIAL
4 FUTURE ON YOU. A QUARTER OF A MILLION DOLLARS IS A LOT OF
5 MONEY. AND SO THAT'S THAT EXTRA INCENTIVE THAT YOU HAVE TO
6 COMPLY WITH THE TERMS OF YOUR SUPERVISION. AND I KNOW YOU'LL
7 DO IT. BUT THAT'S WHAT IT MEANS TO BE A SURETY. IT'S FULLY
8 VOLUNTARY. NO ONE CAN FORCE YOU TO DO IT.

9 IF YOU CHANGE YOUR MIND, YOU CAN COME BACK, AND I'LL
10 LET YOU OFF THE BOND, BUT YOU HAVE TO COME BACK AND ASK ME, AND
11 I HAVE TO ORDER IT. BUT UNTIL THAT HAPPENS, THAT'S YOUR
12 FINANCIAL RISK. SO I'M GOING TO ASK ALL OF THE SURETIES IN
13 TURN IF THEY UNDERSTAND WHAT IT MEANS TO BE A SURETY AND AGREE
14 TO BE A SURETY.

15 SO WE'LL START WITH MR. NGUYEN ON THE PHONE. DO YOU
16 UNDERSTAND WHAT IT MEANS TO BE A SURETY?

17 **MR. GIANG NGUYEN:** I UNDERSTAND AND AGREE.

18 **THE COURT:** THANK YOU. MS. PHAM AND MR. NGUYEN, DO
19 YOU UNDERSTAND WHAT IT MEANS TO BE A SURETY.

20 **MR. MINH NGUYEN:** (INDISCERNIBLE.)

21 (SIMULTANEOUS SPEAKING.)

22 **MS. PHAM:** (INDISCERNIBLE.)

23 (SIMULTANEOUS SPEAKING.)

24 **THE COURT:** ALL RIGHT. AND DO YOU BOTH AGREE?

25 **MR. MINH NGUYEN:** (INDISCERNIBLE.)

1 (SIMULTANEOUS SPEAKING.)

2 **MS. PHAM:** (INDISCERNIBLE.)

3 (SIMULTANEOUS SPEAKING.)

4 **THE COURT:** ALL RIGHT. NOW CUSTODIAN, LAST THING.
5 THEN EVERYONE WILL SIGN THE BOND FORM.

6 A CUSTODIAN IS AN EXTRA OBLIGATION YOU'RE TAKING ON.
7 YOU'RE PROMISING TO SUPERVISE YOUR HUSBAND. YOU CAN'T CONTROL
8 HIS BEHAVIOR. SO THAT'S OKAY; I KNOW THAT. BUT IF YOU LEARN
9 HE'S VIOLATING ANY OF THE CONDITIONS OF HIS SUPERVISION, YOU
10 HAVE TO TELL PRETRIAL SERVICES, WHICH PRETRIAL SERVICES WILL
11 TELL ME. THAT'S YOUR PROMISE TO ME. IF YOU DON'T DO THAT,
12 THEN YOU'RE VIOLATING YOUR PROMISE TO ME, AND THAT'S ACTUALLY
13 CONTEMPT OF COURT, TOO, IN THE WAY I DESCRIBED.

14 AGAIN, IT IS FULLY VOLUNTARILY. NO ONE CAN FORCE YOU
15 TO DO IT. IF YOU CHANGE YOUR MIND, YOU COME BACK HERE AT ANY
16 TIME. I'LL LET YOU OFF. YOU'VE GOT TO COME BACK HERE. BUT
17 THAT'S YOUR OBLIGATION IF YOU AGREE TO BE A CUSTODIAN.

18 DO YOU UNDERSTAND WHAT IT MEANS TO BE A CUSTODIAN?

19 **MS. PHAM:** YES, I UNDERSTAND.

20 **THE COURT:** AND YOU AGREE TO BE A CUSTODIAN? OKAY.
21 YOU AGREE.

22 **MS. PHAM:** YEAH, I AGREE.

23 **THE COURT:** OKAY. SO I'LL SEND IT BACK EVERYBODY.
24 WHAT'S YOUR TIME PERIOD FOR POSTING THE PROPERTY?

25 **MR. LUSKEY:** THE NEXT 24 HOURS, YOUR HONOR.

1 **THE COURT:** ALL RIGHT. THAT'S FINE. I WON'T DELAY
2 THE RELEASE IF YOU'RE ORGANIZING THE POSTING, BASED ON YOUR
3 ASSURANCES, MR. LUSKEY, THAT HE'S GOING TO MAKE SURE IT HAPPENS
4 WITHIN 24 HOURS.

5 **MR. LUSKEY:** OKAY WITH THE GOVERNMENT?

6 **THE COURT:** I MEAN, THEY'RE NOT AGREEING TO RELEASE,
7 SO...

8 **MR. LUSKEY:** YEAH, OF COURSE.

9 **THE COURT:** THAT MEANS HE'LL GET OUT TONIGHT.

10 **MR. LUSKEY:** YEAH. SO I'M IN CONTACT WITH MR. --

11 **THE COURT:** THESE GUYS SHOULD BE ABLE TO POST WHAT
12 THEY HAVE THIS AFTERNOON IN SAN FRANCISCO. YOU'LL BE ABLE TO
13 GET THE CASH. THE \$30,000 MAY TAKE LONGER. THAT'S WHAT I WAS
14 MOSTLY THINKING. I WON'T DELAY. EVERYBODY ELSE SHOULD BE ABLE
15 TO GO. WITH THAT FORM, YOU'LL BE ABLE TO SEND IT TO SEATTLE.
16 AS LONG AS YOU WORK OUT THE ARRANGEMENTS TODAY WITH MR. NGUYEN
17 IN SEATTLE ABOUT WHAT IT'S GOING TO BE, I WON'T DELAY FOR THAT
18 PERIOD OF TIME. I ASSUME MAYBE YOU'LL WIRE THE MONEY TO YOUR
19 TRUST ACCOUNT AND THEN YOU'LL POST IT FOR HIM. I DON'T KNOW
20 WHAT YOU'LL DO, WHETHER IT GETS DONE IN SEATTLE. I DON'T KNOW
21 HOW THAT WORKS. BUT YOU'LL SORT OUT --

22 **MR. LUSKEY:** WE WILL.

23 **THE COURT:** -- WITH THE CLERK'S OFFICE TODAY.

24 **MR. LUSKEY:** I WOULD HAVE HIM GO TO SEATTLE
25 COURTHOUSE BY TOMORROW MORNING.

1 **THE COURT:** OKAY. THAT'S FINE.

2 **MR. LUSKEY:** (INDISCERNIBLE.)

3 **THE COURT:** OKAY, OKAY. THAT SOUNDS LIKE A PLAN.

4 ALL RIGHT. SO HE'S GOING TO GET OUT SOMETIME -- HE'S AT GLENN
5 DYER?

6 **UNIDENTIFIED SPEAKER:** (INDISCERNIBLE.)

7 **THE COURT:** OKAY. SO SOMEONE IS GOING TO PICK HIM UP
8 TONIGHT.

9 MS. PHAM, ARE YOU GOING TO BE ABLE TO PICK HIM UP IN
10 OAKLAND TONIGHT?

11 **UNIDENTIFIED SPEAKER:** WE CAN DO IT.

12 **THE COURT:** OKAY. ALL RIGHT. IT'S HARD TO SAY HE'LL
13 GET OUT --

14 (SIMULTANEOUS SPEAKING.)

15 **THE COURT:** HE SHOULD HAVE HIS PHONE. OKAY. SO I'M
16 SIGNING THE BOND FOR HIM. IS TODAY'S DATE THE 7TH? IS TODAY
17 THE 8TH? I THINK I'VE BEEN SIGNING THINGS THE 7TH.

18 OKAY. ALL RIGHT. SO OUR NEXT CASE AFTER THIS -- OH,
19 WE HAVE TO DEAL WITH THE ISSUE OF REMOVAL, THE IDENTITY HEARING
20 AND THE NEXT COURT DATE. OKAY.

21 SO, MR. BUI, ARE YOU GOING TO WAIVE IDENTITY HEARING?

22 **MR. LUSKEY:** YES, WE ARE GOING TO WAIVE THE IDENTITY
23 HEARING, YOUR HONOR.

24 **THE COURT:** ALL RIGHT. SO, MR. BUI, WE TALKED ABOUT
25 THIS WHEN YOU CAME HERE BEFORE, TO CHALLENGE THE CASE, YOU HAVE

1 TO DO THAT IN NEW MEXICO. YOU ALSO HAVE THE RIGHT TO A HEARING
2 HERE ON THE ISSUE OF YOUR IDENTITY. THE QUESTION IS NOT
3 WHETHER YOU DID IT, BUT WHETHER YOU'RE THE PERSON THEY ACCUSE
4 OF THE CRIME. THAT'S WHY WE CALL IT AN IDENTITY HEARING. YOU
5 CAN HAVE A HEARING HERE WHERE THE GOVERNMENT WOULD HAVE TO
6 PROVE THAT, OR YOU CAN ADMIT YOU'RE THE PERSON CHARGED AND
7 WAIVE YOUR RIGHT TO AN IDENTITY HEARING AND THEN JUST CHALLENGE
8 THE CASE IN NEW MEXICO.

9 AND SO DO YOU UNDERSTAND YOUR RIGHT TO AN IDENTITY
10 HEARING HERE?

11 **THE DEFENDANT:** YES, I UNDERSTAND BECAUSE I WOULD
12 (INDISCERNIBLE).

13 **THE COURT:** OKAY. GOOD. AND DO YOU WISH TO WAIVE
14 YOUR RIGHT TO A HEARING AND ADMIT YOU ARE THE PERSON CHARGED IN
15 NEW MEXICO?

16 **THE DEFENDANT:** YES.

17 **THE COURT:** ALL RIGHT. AND I WOULD JUST ASK YOU THEN
18 TO STATE YOUR FULL NAME FOR THE RECORD AND YOUR AGE.

19 **THE DEFENDANT:** MY FIRST NAME IS HUY, MIDDLE NAME
20 QUANG. BUI IS MY LAST NAME. MY DATE OF BIRTH IS IN
21 [REDACTED] 1981.

22 **THE COURT:** OKAY. ALL RIGHT. AND YOU ADMIT THAT
23 YOU'RE THE PERSON CHARGED IN NEW MEXICO?

24 **THE DEFENDANT:** YES.

25 **THE COURT:** OKAY. SO MR. BUI'S ADMITTED HIS IDENTITY

1 AND WAIVED HIS RIGHT TO A HEARING, AND I'LL SIGN THE REMOVAL
2 ORDER TODAY. WE DO HAVE A DATE IN NEW MEXICO?

3 MR. SHIH: YES, YOUR HONOR.

4 MR. LUSKEY: WE HAVE A DATE, NOT YET A TIME.

5 MR. SHIH: 9:30.

6 MR. LUSKEY: 9:30?

7 MR. SHIH: YES.

8 THE COURT: OKAY.

9 MR. SHIH: I ACTUALLY AM HANDING UP THE INSTRUCTIONS
10 TO (INDISCERNIBLE) TO --

11 THE COURT: ALL RIGHT. SO YOU'LL -- MR. SHIH GAVE
12 YOU JUST NOW A COPY OF THE ADDRESS OF THE COURTHOUSE IN
13 ALBUQUERQUE AND THE COURTROOM ON THE 5TH FLOOR WHERE YOU'LL BE
14 APPEARING ON NOVEMBER 29TH AT 9:30 BEFORE JUDGE FASHING FOR
15 YOUR INITIAL APPEARANCE IN THE DISTRICT OF NEW MEXICO. OKAY.
16 OH, YES. WOULD YOU JUST LIST THE NAMES --

17 MR. LUSKEY: I WILL.

18 THE COURT: -- AND THE DOLLAR AMOUNTS?

19 MR. LUSKEY: ABSOLUTELY.

20 THE COURT: ALL RIGHT.

21 MR. SHIH: ONE MORE MATTER FROM THE GOVERNMENT, YOUR
22 HONOR.

23 THE COURT: YES.

24 MR. SHIH: WE WOULD ASK THAT TIME BE EXCLUDED ON THE
25 SPEEDY TRIAL UNDER THE SPEEDY TRIAL ACT.

1 **THE COURT:** RIGHT.

2 **MR. SHIH:** WE HAVE A STIPULATION THAT WE PREPARED FOR
3 THAT.

4 **THE COURT:** OKAY, OKAY. I'LL SIGN THAT.

5 (CONVERSATION HELD SOTTO VOCE.)

6 **THE COURT:** I'M SIGNING THE SPEEDY TRIAL -- AGREED-TO
7 SPEEDY TRIAL EXCLUSION WHICH WILL EXTEND THE TIME. THE SPEEDY
8 TRIAL WILL START RUNNING AFTER TEN DAYS AND THAT WILL EXTEND
9 TIME (INDISCERNIBLE).

10 OKAY. ALL RIGHT. MR. BUI, GOOD LUCK.

11 **MR. LUSKEY:** THANK YOU, YOUR HONOR.

12 **MR. SHIH:** THANK YOU.

13 **THE COURT:** THANKS, MR. NGUYEN. WE'RE GOING TO HANG
14 UP NOW.

15 **MR. GIANG NGUYEN:** THANK YOU.

16 (PROCEEDINGS ADJOURNED AT 10:48 A.M.)

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CERTIFICATE OF TRANSCRIBER

I CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT
TRANSCRIPT, TO THE BEST OF MY ABILITY, OF THE ABOVE PAGES OF
THE OFFICIAL ELECTRONIC SOUND RECORDING PROVIDED TO ME BY THE
U.S. DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, OF THE
PROCEEDINGS TAKEN ON THE DATE AND TIME PREVIOUSLY STATED IN THE
ABOVE MATTER.

I FURTHER CERTIFY THAT I AM NEITHER COUNSEL FOR,
RELATED TO, NOR EMPLOYED BY ANY OF THE PARTIES TO THE ACTION IN
WHICH THIS HEARING WAS TAKEN; AND, FURTHER, THAT I AM NOT
FINANCIALLY NOR OTHERWISE INTERESTED IN THE OUTCOME OF THE
ACTION.



JOAN MARIE COLUMBINI

DECEMBER 2, 2016